

adapted to be secured to the floor forwardly of said rear most portion of said rearwardly extended portions to provide a resistive force around said rearward securing means when said barrier front portions are deflected rearwardly.

### **REMARKS**

This application has been carefully reviewed in view of the Office Action dated 05/07/04. Claims 1-8 have been amended for: correction as to form to more distinctly claim the subject matter of the invention; and to distinguish the subject matter of the invention over the prior art.

In particular, amended claims 2-8 have been amended to remove the informality of the capital "Claim" to read "claim".

Claims 1-8, were rejected on the basis of 35 U.S.C. 112, paragraph 2, as not distinctively and clearly stating what limitations following original included phrase "such as" are part of the invention. The notation of MPEP Sec. 2173.05(d) was reviewed for scope of correction of claims 1-8, as suggested by the Examiner.

Original independent claim 1 has been amended to, among other things, remove the indefinite phrase "such as", along with the related language, to make it clear what limitations are part of the claimed invention.

Original claim 2 was rejected as having securing means between itself, as part of the barrier, and the post. Amended claim 2 specifically defines the securing portion of the barrier and defines the securing portion as being positioned in a defined space

between barrier and the post, as opposed to being defined as extending externally from the barrier, and not between the barrier (itself) and the post.

Original claim 3, was rejected as not having sufficient antecedent basis for “said rearwardly extended support portion”. Amended claim 3 is dependent on claim 1 which has been amended to provide said antecedent basis to more distinctly claim the subject matter of the invention in claim 3.

Claim 7 has been amended to provide the antecedent basis for “said barrier rearwardly extending portions” and to remove the limitation of “said front side portion”.

Original claims 1, 3-4 and 6 were rejected under U.S.C. 120 (b) as being anticipated by Vargo.

Inasmuch as Vargo does not disclose, suggest or otherwise anticipate a barrier rear portion having an extended portion extending horizontally rearwardly significantly beyond the post to be protected as is now defined by amended claims 1 and 3-4, the structure defined by amended claims 1 and 3-4, along with the structure defined by amended claims 1, 2 and 8, as now amended, are not anticipated by Vargo and, in this regard, appear to be in condition for allowance, and such action is respectfully requested.

Original claims 1-8 were rejected under U.S.C. 102 (b) as being anticipated by Jacoby et al. Jacoby et al. has a barrier welded to the post on two sides.

Jacoby et al. does not disclose, suggest, or in any way anticipate, a barrier positioned horizontally around the front and adjacent the rear of the post and space away from all sides of the post as is defined by amended claims 1-8. In this regard, amended

claims 1-8 appear to be in condition for allowance, and such action is respectfully requested.

As to original claim 6, Jacoby et al. does not disclose, suggest, or in any way anticipate the significantly extended support portion extending horizontally rearwardly beyond the post in a combination structure reaction with front panel portions as is defined by amended claim 6. In this regard, amended claim 6 appears to be in condition for allowance, and such action is respectfully requested.

As to original claims 7 and 8, Jacoby et al. discloses an unnumbered securing aperture in an unnumbered portion of a base plate (FIG. 7-10). Jacoby's vertical gusset plates are horizontally aborted and do not extend to, or beyond, securing aperture. Also, Jacoby's securing aperture is not between the gussets for support therewith in resistive reaction to impact (applicant's FIGS. 4 and 5) as is disclosed by the specification and as defined by applicant's amended claim 7.

Jacoby et al. does not disclose, suggest or in any way anticipate a securing means between rearward portions that extend significantly rearwardly beyond the post as is defined and utilized in applicant's structure as defined in amended claim 7. Accordingly, in this regard, amended claims 7 and 8 appear to be in condition for allowance, and such action is respectfully requested.

Further, amended claim 8 defines the central beam portion as being totally between the significantly extended rear barrier portions, as well as, within the space between the post and the front portions for providing a resistive reaction to deflection of

the side portions upon rearward impact. Accordingly, amended claim 8 additionally appears to be in condition for allowance, and such action is respectfully requested.

This application has been amended to more distinctly claim the subject matter of the invention and to distinguish the invention over the prior art to place the application in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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By:

A handwritten signature in cursive script, reading "Evan D. Roberts", written over a horizontal line.

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